IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4371 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHAMPAKLAL R TALAVIYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4371 of 2000

MR RC PATHAK for Petitioner No. 1-2

MR KAMAL TRIVEDI A.A.G with MR AD OZA G.P. for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 16/07/2004

ORAL JUDGEMENT

1.0. By this petition, the petitioners have challenged the Government Resolution dated 22nd December, 1999 and

prayed that the Government Resolution dated 17th October, 1988, which provides that after completion of the service of 5 years, the daily wagers employees are entitled to minimum of time scale of pay with all allowances and after completion one year service, the employees are entitled for regularization with all permissible allowances, is applicable to all the respondent department and the petitioner - workmen are entitled for the benefits of the said Resolution and hence, the respondents be directed to give the benefits to them.

1.1. The petitioners are daily wage employees performing their duties as chowkidars, since years. All of them have completed minimum service of five years. The respondents have not declared any seniority list for the petitioner - workmen. It is the case of the petitioner- workmen that, since the work performed by the petitioner - workmen is a permanent nature of work, they are required to be considered as regular employees in the regular time scale of Rs.2250-3200, with all permissible allowances. However, the respondents are rotating the petitioner - workmen as daily wagers.

3.0. Having heard the learned counsel for the parties, and in view of the decision of the Full Bench of this Court in the case of Gujarat Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat reported in 2004 (2) G.L.H. 302, and more particularly para 31, I hold that the petitioner - workmen are not engaged in the work of maintenance and repairs of construction in the Forest Department and, therefore, they should not be governed by the Circular dated 17th October, 1988. The relevant question which was considered in the said decision alongwith its answer is reproduced as under :-

Que-3 "Whether the petitioners or similarly situated employees of the Forest Department are entitled to the benefit of Government Resolution dated 17-10-1988?"

Ans-3 The Government Resolution dated 17th October, 1988 is applicable to the daily wagers of the Forest & Environment Department engaged in the work of maintenance and repairs of constructions in that Department, and not to the daily wagers engaged in other types of work in that Department."

In view of the above, the petition is dismissed. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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